



Linda S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

Maureen F. Gorsen, Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Arnold Schwarzenegger
Governor

March 4, 2009

Mr. Stephen Hill
Toxics Cleanup Division Chief
California RWQCB-SF Bay Region
1515 Clay Street, Suite 1400
Oakland, California 94612

HITACHI GLOBAL STORAGE TECHNOLOGIES' REDEVELOPMENT PROPERTY
5600 COTTLE ROAD, SAN JOSE, CALIFORNIA

Dear Mr. Hill:

I am writing this letter to confirm our joint understanding about the lead agency role at the former IBM facility, now the Hitachi GST facility located at 5600 Cottle Road in San Jose, California. Cal-EPA originally designated the California Regional Water Quality Control Board - San Francisco Bay Region (RWQCB) as the lead agency for the IBM facility pursuant to SB 1082 (Calderon) in 1996 (Health and Safety Code Section 25204.6(b)). At that time, IBM was conducting extensive environmental investigations and remediation of contaminated soil and groundwater at its facility, mainly due to the release from underground storage tank systems.

The RWQCB has issued a series of Site Cleanup Requirements and administrative orders to IBM for investigation and cleanup, starting with Regional Board Order 84-90, which has been amended and revised several times since it was originally issued. The RWQCB has been and remains the lead agency overseeing the remedial activities conducted by IBM pursuant to the Regional Board Order R2-2002-0082 dated September 2002, as amended by Order No R2-2007-0004, and the lead agency overseeing remedial activities conducted by Lowe's at Parcel A pursuant to the RWQCB's letter to Lowe's dated October 20, 2008.

The IBM facility is also subject to the requirements of the Resource Conservation and Recovery Act (RCRA). The Department of Toxic Substances Control (DTSC) has regulated the facility since 1981, and issued a hazardous waste facility permit to IBM in April 1985 and in December 1992 pursuant to RCRA. In 2003, Hitachi GST purchased most of the facility, and DTSC transferred the RCRA permit to Hitachi GST. As you know, all RCRA permits are required to include corrective action requirements to be

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implemented by the permittee. The SB 1082 framework acknowledges that DTSC and the RWQCB will jointly decide who will be the lead agency for corrective action sites subject to an active RCRA permit where the RWQCB was previously the lead prior to the enactment of SB 1082. Consistent with this framework, DTSC has been overseeing RCRA corrective action for the portion of the facility under Hitachi GST ownership and control.

If any portion of the permitted facility is to be removed from the permit, it must first show that it has satisfied RCRA corrective action requirements and then be formally removed from the permit. Thus, when Hitachi GST requested to remove a 10.8-acre parcel from the permit to be developed into a City Police Station, DTSC, as lead agency for RCRA corrective action, entered into a Corrective Action Consent Agreement (Docket No. P2-04/05-002) for the assessment and clean up of this potentially contaminated property to ensure that it met the redevelopment standards before releasing it from the permit. This process took approximately 18 months and was coordinated with the staff of the RWQCB.

Similarly when Hitachi GST decided to cease industrial operations and redevelop approximately 143 acres of its property, known as the "Redevelopment Property", DTSC required Hitachi GST to perform RCRA corrective action in order to remove the Redevelopment Property from the RCRA permit. As lead agency for RCRA corrective action, DTSC entered into Corrective Action Consent Agreement (Docket No. HWCA P2-05/06-001, effective June 7, 2006) with Hitachi GST to oversee the corrective action requirements for the Redevelopment Property.

On November 26, 2007, DTSC deemed corrective action complete for the Redevelopment Property, with the exception of an approximately 0.78 -acre chloroform release area in the vicinity of Building 028J (Chloroform Release Area), and released the entire Redevelopment Property from the RCRA Permit. At that same time, DTSC required the remediation of the Chloroform Release Area to be performed under DTSC oversight pursuant to Consent Agreement (Corrective Action Consent Agreement Docket HWCA: P2-07/08-012). DTSC has kept the RWQCB staff fully informed of our actions on this project.

As we have recently discussed, DTSC is proposing to issue a Corrective Action Complete Determination for the Chloroform Release Area. The RWQCB is aware that there remains a residual amount of chloroform in groundwater above the MCL in the Chloroform Release Area and concurs with DTSC's proposal to determine that corrective action is complete for the Chloroform Release Area.

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Because DTSC has proposed to conclude the corrective action project under Corrective Action Consent Agreement Docket HWCA: P2-07/08-012, it is important to clarify our agencies' respective roles going forward. If there are any newly discovered releases in the future at the hazardous waste facility owned and operated by Hitachi GST pursuant to DTSC's permit, DTSC will notify the RWQCB and our two agencies will reach a mutual agreement on how to proceed with oversight of any necessary corrective action.

DTSC would appreciate it if you would sign below and return a copy of this letter to me to confirm that this letter accurately reflects the RWQCB's understanding. Please fax the signed version to me at 916-255-3697 or e-mail it to me at msandhu@dtsc.ca.gov

If you have any questions, please do not hesitate to call me at (916) 255-3716. Thank you for your attention to this matter.

Sincerely,

//original signed by//

Mohinder S. Sandhu, P.E.
Supervising Hazardous Substances Engineer II

CONFIRMED:

//original signed by//

Date: 3/9/09

Stephen Hill
Toxics Cleanup Division Chief
California RWQCB-SF Bay Region